

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James DeCarlo (Reg. No. 36,120) on 7/31/2008.

The application has been amended as follows:

### **IN THE CLAIMS**

Please amend the claims as follows:

1. (Currently Amended) A method comprising:  
providing a first community having members, each member of the first community having associated preferences regarding data stream content, the members of said first community are determined to have at least one preference in common;  
determining characteristics of said first community members' preferences to provide determined characteristics; and  
defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream according to said determined characteristics of said first member community's preferences, said individual data stream being biased according to said first community members' preferences.

2. (Previously Amended) The method as set forth in Claim 1, wherein said step of selecting content for inclusion in an individual data stream further comprises:  
selecting content for inclusion in an individual data stream according to said determined characteristics, said individual data stream being biased for positive preferences of said community and biased against negative preferences of said community.
3. (Previously Amended) The method as set forth in Claim 1, wherein said step of providing a first community further comprises:  
providing a second community having at least as many members as said first community, each member of said second community having associated preferences regarding data stream content;  
evaluating said preferences of said second community; and  
determining said first community from said second community, members of said first community comprising members of said second community determined to have at least one preference in common.
4. (Previously Amended) The method as set forth in Claim 1, wherein the step of selecting content for inclusion in an individual data stream further comprises:  
selecting content for inclusion in said individual data stream in accordance with sound recording performance restrictions.
5. (Previously Amended) The method as set forth in Claim 1, wherein the method further comprises:  
transmitting said individual data stream on a voluntary or selectable basis to allow an individual to receive said individual data stream on a voluntary or selectable basis.
6. (Currently Amended) A method comprising:

providing a second community having at least as many members as a first community, each member of said second community having associated preferences regarding data stream content;  
evaluating said preferences of said second community; and  
determining said first community from said second community, members of said first community comprising members of said second community determined to have at least one preference in common;  
determining characteristics of preferences of said first community to provide determined characteristics;  
defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream according to said determined characteristics, said individual data stream being biased according to said determined characteristics of said first member community's preferences, and said individual data stream being biased for positive preferences of said first community members and biased against negative preferences of said first community members; and  
transmitting said individual data stream on a voluntary or selectable basis to allow an individual to receive said individual data stream on a voluntary or selectable basis.

7. (Currently Amended) A method comprising:  
providing a first community having members, said first community being dynamically self-defining by means of preferences associated with each member of said first community regarding data stream content, said first community comprising members determined to have at least one preference in common;  
determining characteristics of said first community members' preferences to provide determined characteristics;

defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream according to said determined characteristics of said first member community's preferences, said individual data stream being biased according to said first community members' preferences; and repeating said providing, determining, and defining steps to re-establish said first community, to re-establish said preferences and determined characteristics, and to select content for inclusion in said individual data stream.

8. (Previously Amended) The method as set forth in Claim 7, wherein said step of selecting content for inclusion in an individual data stream further comprises:

selecting content for inclusion in an individual data stream according to said determined characteristics, said individual data stream being biased for positive preferences of said community and biased against negative preferences of said community.

9. (Previously Amended) The method as set forth in Claim 7, wherein said step of providing a first community further comprises:

providing a second community having at least as many members as said first community, each member of said second community having associated preferences regarding data stream content; evaluating said preferences of said second community; and determining said first community from said second community, members of said first community comprising members of said second community determined to have at least one preference in common.

10. (Previously Amended) The method as set forth in Claim 7, wherein the step of selecting content for inclusion in an individual data stream further comprises:

selecting content for inclusion in accordance with sound recording performance restrictions.

11. (Previously Amended) The method as set forth in Claim 7, wherein the method further comprises:

transmitting said individual data stream on a voluntary or selectable basis to allow an individual to receive said individual data stream on a voluntary or selectable basis.

12. (Previously Amended) The method as set forth in Claim 7, wherein the step of providing a first community further comprises:

providing a first community, each member of which is determined to provide an artist rating which exceeds a predetermined rating threshold.

13. (Previously Amended) The method as set forth in Claim 12, wherein the rating corresponds to a scale of 1 to 100 and the predetermined rating threshold is 70.

14. (Currently Amended) A method comprising:

providing a first community having members, said first community being dynamically self-defining by means of preferences associated with each member of said first community regarding data stream content;

providing a second community having at least as many members as said first community, each member of said second community having associated preferences regarding data stream content;

evaluating said second preferences of said second community; and

determining said first community from said second community, members of said first community comprising members of said second community determined to have at least one preference in common;

determining characteristics of said first community members' preferences to provide determined characteristics;

defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream according to said determined characteristics of said first member community's preferences, said individual data stream being biased for positive preferences of said first community members and biased against negative preferences of said first community members;

transmitting said individual data stream on a voluntary or selectable basis thereby allowing an individual to receive said individual data stream on a voluntary or selectable basis; and

repeating said steps of providing said first community, determining characteristics to provide said determined characteristics, defining said individual data stream including said selecting content for inclusion in said individual data stream, and transmitting said individual data stream in order to re-establish said first community, to re-establish said preferences and determined characteristics, and to select content for inclusion in said individual data stream.

15. (Currently Amended) A method comprising:
  - providing a first community having members, said first community being dynamically self-defining by means of preferences associated with each member of said first community regarding data stream content, said first community comprising members determined to have at least one preference in common;
  - determining characteristics of said first community members' preferences to provide determined characteristics;

defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream according to said determined characteristics of said first member community's preferences, said individual data stream being biased according to said first community members' preferences; receiving preferences from a first user; and transmitting said individual data stream to said first user, including content highly rated by said first user according to said preferences of said first user.

16. (Previously Amended) The method as set forth in Claim 15, wherein said step of selecting content for inclusion in an individual data stream further comprises:

selecting content for inclusion in an individual data stream according to said determined characteristics, said individual data stream being biased for positive preferences of said community and biased against negative preferences of said community.

17. (Previously Amended) The method as set forth in Claim 15, wherein the step of providing a first community further comprises:

providing a second community having at least as many members as said first community, each member of said second community having associated preferences regarding data stream content; evaluating said preferences of said second community; and determining said first community from said second community, members of said first community comprising members of said second community determined to have at least one preference in common.

18. (Previously Amended) The method as set forth in Claim 15, wherein the step of selecting content for inclusion in an individual data stream further comprises:

selecting content for inclusion in said individual data stream in accordance with sound recording performance restrictions.

19. (Previously Amended) The method as set forth in Claim 15, wherein the step of transmitting said individual data stream further comprises:

transmitting said individual data stream on a voluntary or selectable basis to allow an individual to receive said individual data stream on a voluntary or selectable basis.

20. (Previously Amended) The method as set forth in Claim 15, wherein the step of providing a first community further comprises:

providing a first community, each member of which is determined to provide an artist rating which exceeds a predetermined rating threshold.

21. (Previously Amended) The method as set forth in Claim 20, wherein the rating corresponds to a scale of 1 to 100 and the predetermined rating threshold is 70.

22. (Currently Amended) A method comprising:

providing a first community having members, said first community being dynamically self-defining by means of preferences associated with each member of said first community regarding data stream content;

providing a second community having at least as many members as said first community, each member of said second community having associated preferences regarding data stream content;

evaluating said second preferences of said second community; and

determining said first community from said second community, members of said first community comprising members of said second community determined to have at least one preference in common;



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determining characteristics of said first community members' preferences to provide determined characteristics;  
receiving preferences from a first user;  
defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream according to said determined characteristics of said first member community's preferences and according to said preferences of said first user, said individual data stream being biased for positive preferences of said first community members and biased against negative preferences of said first community members, and said individual data stream being biased according to said preferences of said first user;  
transmitting said individual data stream to said first user, including content highly rated by said first user according to said preferences of said first user, said individual data stream transmitted on a voluntary or selectable basis to allow said first user to receive said individual data stream on a voluntary or selectable basis; and  
repeating said steps of providing said first community, determining characteristics to provide said determined characteristics, defining said individual data stream including said selecting content for inclusion in said individual data stream, and transmitting said individual data stream in order to re-establish said first community, to re-establish said preferences and determined characteristics, and to select content for inclusion in said individual data stream.

23. (Currently Amended) A method comprising:  
repeatedly receiving preferences from receivers of data stream content of a music-related database including songs and/or music videos;

repeatedly determining a first community of receivers from said received preferences to allow said first community to evolve over time, said first community having similar preferences for similar data stream content;

repeatedly determining characteristics solely of said received preferences of said first community to provide determined characteristics; and

defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream of said music-related database according to said determined characteristics of said first member community's preferences, said individual data stream being biased according to said received preferences of said first community,

said individual data stream having more content that said first community likes and less content that said first community dislikes without analysis of said data stream content, and both said first community and said determined characteristics are permitted to change over time according to said received preferences of said first community.

24. (Previously Amended) The method as set forth in Claim 23, wherein said step of selecting content for inclusion in an individual data stream further comprises:

selecting content for inclusion in an individual data stream according to said determined characteristics, said individual data stream being biased for positive preferences of said first community and biased against negative preferences of said first community.

25. (Previously Amended) The method as set forth in Claim 23, wherein the step of repeatedly receiving preferences from receivers of data stream content further comprises:

repeatedly receiving preferences of a second community, said second community having at least as many members as said first community, said received preferences regarding data stream content of said music-related database;  
repeatedly evaluating said preferences of said second community; and  
repeatedly determining said first community from said second community, members of said first community comprising members of said second community determined to have at least one preference in common.

26. (Previously Amended) The method as set forth in Claim 23, wherein the step of selecting content for inclusion in an individual data stream further comprises:  
selecting content for inclusion in said individual data stream in accordance with sound recording performance restrictions.

27. (Previously Amended) The method as set forth in Claim 23, wherein the method further comprises:  
transmitting said individual data stream on a voluntary or selectable basis to allow an individual to receive said individual data stream on a voluntary or selectable basis.

28. (Currently Amended) A method comprising:  
repeatedly receiving preferences of a first community having a plurality of members, said first preferences regarding data stream content of a first music-related database including songs and/or music videos;  
repeatedly receiving preferences of a second community, said second community having at least as many members as said first community, said received preferences regarding data stream content of said music-related database;

evaluating said received preferences of said second community to provide evaluated preferences;  
repeatedly determining said first community from said second community by means of said evaluated preferences with members of said first community having at least one preference in common;  
repeatedly determining characteristics solely of said first community members' preferences with regard to said data stream content to provide determined characteristics;  
defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream of said music-related database according to said determined characteristics, said individual data stream being biased according to said determined characteristics of said first member community's preferences, and said individual data stream being biased for positive preferences of said first community and biased against negative preferences of said first community; and  
transmitting said individual data stream on a voluntary or selectable basis to allow an individual to receive said individual data stream on a voluntary or selectable basis,  
said individual data stream having more content that said first community likes and less content that said first community dislikes without resort to analysis of said data stream content, and both said first community and said determined characteristics are permitted to change over time according to, respectively, said preferences of said second community and said preferences of said first community.

29. (Currently Amended) A computer-implemented method comprising:

repeatedly receiving preferences from receivers of data stream content of a music-related database including songs and/or music videos; repeatedly determining a first community of receivers from said received preferences, said first community having similar preferences for similar data stream content; repeatedly determining characteristics solely of said received preferences of said first community to provide determined characteristics; and defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream of said music-related database according to said determined characteristics of said first member community's preferences, said individual data stream being biased according to said received preferences of said first community, said individual data stream having more content that said evolving first community likes and less content that said first community dislikes without analysis of said data stream content, and both said first community and said determined characteristics are permitted to change over time according to said received preferences of said first community.

30. (Previously Amended) The computer-implemented method as set forth in Claim 29, wherein said step of selecting content for inclusion in an individual data stream further comprises:

selecting content for inclusion in an individual data stream according to said determined characteristics, said individual data stream being biased for positive preferences of said first community and biased against negative preferences of said first community.

31. (Previously Amended) The computer-implemented method as set forth in Claim 29, wherein the step of repeatedly receiving preferences from receivers of data stream content further comprises:

repeatedly receiving preferences of a second community, said second community having at least as many members as said first community, said received preferences regarding data stream content of said music-related database;

repeatedly evaluating said preferences of said second community; and

repeatedly determining said first community from said second community, members of said first community comprising members of said second community determined to have at least one preference in common.

32. (Previously Amended) The computer-implemented method as set forth in Claim 29, wherein the step of selecting content for inclusion in an individual data stream further comprises:

selecting content for inclusion in said individual data stream in accordance with sound recording performance restrictions.

33. (Previously Amended) The computer-implemented method as set forth in Claim 29, wherein the method further comprises:

transmitting said individual data stream on a voluntary or selectable basis to allow an individual to receive said individual data stream on a voluntary or selectable basis.

34. (Currently Amended) A computer-implemented method comprising:  
repeatedly receiving preferences of a first community having a plurality of members, said preferences regarding data stream content of a music-related database including songs and/or music videos;

repeatedly receiving preferences of a second community, said second community having at least as many members as said first community, said received preferences regarding data stream content of said music-related database;

evaluating said preferences of said second community to provide evaluated second preferences;

repeatedly determining said first community from said second community by means of said evaluated second preferences, members of said first community comprising members of said second community determined to have at least one preference in common;

repeatedly determining characteristics solely of said first community members' preferences with regard to said data stream content to provide determined characteristics;

defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream of said music-related database according to said determined characteristics of said first member community's preferences, said individual data stream being biased according to said determined characteristics, and said individual data stream being biased for positive preferences of said first community and biased against negative preferences of said first community; and

transmitting said individual data stream on a voluntary or selectable basis to allow an individual to receive said individual data stream on a voluntary or selectable basis,

said individual data stream having more content that said first community likes and less content that said first community dislikes without resort to analysis of said data stream content, and both said first community and said determined characteristics are permitted to change over time according to, respectively, said preferences of

said second community and said preferences of said first community.

35. (Currently Amended) A computer system comprising:
- a server located in a first location, said server repeatedly receiving preferences from users, said users being receivers of data stream content of a music-related database including songs and/or music videos;
  - said server repeatedly determining a first community from said received preferences, said first community having similar preferences for similar content in said first data streams;
  - said server repeatedly determining characteristics solely of said preferences of said first community with regard to said data stream content to provide determined characteristics; and
  - said server defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data stream of said music-related database according to said determined characteristics of said first member community's preferences, said individual data stream being biased according to said received preferences of said first community;
  - said individual data stream having more content that said evolving first community likes and less content that said first community dislikes without analysis of said data stream content, and both said first community and said determined characteristics are permitted to change over time according to said preferences of said first community.



36. (Previously Amended) The computer system as set forth in Claim 35, wherein said server selecting content for inclusion in an individual data stream further comprises:

said server selecting content for inclusion in an individual data stream according to said determined characteristics, said individual data stream being biased for positive preferences of said first community and biased against negative preferences of said first community.

37. (Previously Amended) The computer system as set forth in Claim 35, wherein said server repeatedly receiving preferences from receivers of content in first data streams further comprises:

said server repeatedly receiving preferences of a second community, said second community having at least as many members as said first community, said received preferences regarding data stream content of said music-related database;

said server repeatedly evaluating said preferences of said second community; and

said server repeatedly determining said first community from said second community members of said first community are members of said second community determined to have at least one preference in common.

38. (Previously Amended) The computer system as set forth in Claim 35, wherein said server selecting content for inclusion in an individual data stream further comprises:

said server selecting content for inclusion in said individual data stream in accordance with sound recording performance restrictions.

39. (Previously Amended) The computer system as set forth in Claim 35, said system further comprises:

said server transmitting said individual data stream on a voluntary or selectable basis to allow an individual to receive said individual data stream on a voluntary or selectable basis.

40. (Previously Amended) The computer system as set forth in Claim 35, further comprising:

said server being in said first location and at least one of said users being in a second location, said second location being a different country than said first location.

41. (Currently Amended) A computer system comprising:

a server repeatedly receiving preferences of a first community having a plurality of members, said received preferences regarding data stream content of a first music-related database including songs and/or music videos;

said server repeatedly receiving preferences of a second community having a plurality of members, said second preferences regarding data stream content of said music-related database;

said server evaluating said second preferences of said second community to provide evaluated second preferences;

said server repeatedly determining said first community from said second community by means of said evaluated second preferences with members of said first community having at least one preference in common;

said server repeatedly determining characteristics solely of said first community members' preferences with regard to said data stream content to provide determined characteristics;

said server defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, selecting content for inclusion in said individual data

stream of said music-related database according to said determined characteristics of said first member community's preferences, said individual data stream being biased for positive preferences of said first community and biased against negative preferences of said first community; and  
said server transmitting said individual data stream on a voluntary or selectable basis to allow an individual to receive said individual data stream on a voluntary or selectable basis,  
said individual data stream having more content that said first community likes and less content that said first community dislikes without resort to analysis of said data stream content, and both said first community and said determined characteristics are permitted to change over time according to, respectively, said preferences of said second community and said preferences of said first community.

42. (Previously Amended) The computer system as set forth in Claim 41, further comprising:

said server being in said first location and at least one member of said first or second communities being in a second location, said second location being a different country than said first location.

43. (Currently Amended) A computer-implemented method comprising:  
determining a first community of members by filtering a data store of preferences for data stream content, said data stream content comprising data stream elements, said members of said first community having at least one stored preference in common;  
determining data stream elements of said data stream content by filtering said data stream content using said stored preferences of said

members of said first community, each determined data stream element being preferred by said first member community;  
defining a[n] different individual data stream for each user of a plurality of users, said defining comprising, for each individual data stream, by  
further filtering said determined data stream elements using said stored preferences of said members of said first community to select at least one data stream element from said determined data stream elements for inclusion in said individual data stream; and  
transmitting said individual data stream to a user computer.

44. (Previously Amended) The computer-implemented method as set forth in Claim 43, said stored preferences including rating information received from a second community:

said determining a first community further comprising filtering said stored preferences using a first rating threshold, each member of said first community having a preference for at least one data stream element in said data stream content such that said rating information of said member for said at least one data stream element satisfies a first rating threshold;  
said determining data stream elements of said data stream content further comprising filtering said data stream content using rating information of said first community and a second rating threshold, each determined data stream element having rating information of at least one member of said first community that exceeds said second rating threshold;  
said defining an individual data stream further comprising further filtering said determined data stream elements, each data stream element selected from the determined data stream elements is determined to be preferred by at least a threshold percentage of said members of said first community.

***Allowable Subject Matter***

Claims 1-44 are allowed in view of the Applicant's arguments (see Applicant's Response, filed 7/29/2008, Interview Summary, filed 5/07/2008) and the cited prior art of record. The following is an examiner's statement of reasons for allowance: The independent claims recite each user of a plurality of users receiving a data stream, the data stream created by selecting content according to community members' preferences, in which, while the content selection for each data stream is based from the same community preferences, the content is different for each individual data stream. The claims now distinguish from the prior art because each user of the community is not listening to the same channel. A completely different individual data stream is defined for each user. As such, while users are listening within the same community, they aren't listening to the same data stream content at the same time. These limitations, in addition to the rest of the claim limitations, are distinguished from the prior art. For support, see Instant Specification (page 11, line 10 through page 12, line 20).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is 571-272-3910. The examiner can normally be reached on Monday-Thursday 9am-5:30pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J. D./  
Examiner, Art Unit 2143

/Nathan J. Flynn/  
Supervisory Patent Examiner, Art Unit 2143